

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
18 EDC 03019

<p>█ together with his parent █ Petitioner,</p> <p>v.</p> <p>Charlotte-Mecklenburg Schools Board of Education, Respondent.</p>	<p>FINAL DECISION ORDER GRANTING RESPONDENT PARTIAL SUMMARY JUDGMENT ON FOURTH AND SEVENTH COUNTS</p>
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THIS MATTER COMES on for consideration of Respondent's Motion for Partial Summary Judgment. Petitioner has filed a Response. Oral argument was held via teleconference on October 19, 2018 and Final Decision was rendered on Petitioner's Second Count of the Petition.

Oral argument was held on November 1, 2018, concerning the remaining issues in Respondent's motion. Careful consideration was given to the Parties' arguments and legal authorities referenced.

DECISION

It appearing to the Undersigned that there is no genuine issue as to any material fact; and the Respondent is entitled to Summary Judgment as a matter of law concerning all claims prior to May 17, 2017 raised in Petitioner's **Fourth and Seventh Counts** of the Petition.

It appearing to the Undersigned that there is a genuine issue as to any material fact; and the Respondent is not entitled to Summary Judgment as a matter of law concerning all claims raised in Petitioner's **Third Count** of the Petition.

It appearing to the Undersigned that there is no genuine issue as to any material fact; and the Respondent is not entitled to Summary Judgment as a matter of law concerning █'s **standing** as a proper Petitioner in this contested case.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Respondent's Motion for Partial Summary Judgment is granted in favor of Respondent concerning all claims prior to May 17, 2017 raised in Petitioner's **Fourth and Seventh Counts** of the Petition. This decision is made under the authority of §G.S. 150B-34(e).

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Respondent's Motion for Partial Summary Judgment is denied concerning all claims raised in Petitioner's **Third Count** of the Petition. This decision is made under the authority of §G.S. 150B-34(e).

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Respondent's Motion for Partial Summary Judgment is denied concerning [REDACTED]'s **standing** as a proper Petitioner. This decision is made under the authority of §G.S. 150B-34(e).

NOTICE OF APPEAL RIGHTS

In accordance with the Individuals with Disabilities Education Act and North Carolina's Education of Children with Disabilities laws, the parties have appeal rights regarding this dismissal. Under North Carolina's Education of Children with Disabilities laws (N.C.G.S. §§ 115C-106.1 *et seq.*) and particularly N.C.G.S. § 115C-109.9, "any party aggrieved by the findings and decision of a hearing officer under G.S. 115C-109.6 or G.S. 115C-109.8 may **appeal the findings and decision within 30 days after receipt of notice of the decision by filing a written notice of appeal with the person designated by the State Board** under G.S. 115C-107.2(b)(9) to receive notices. The State Board, through the Exceptional Children Division, shall appoint a Review Officer from a pool of review officers approved by the State Board of Education. The Review Officer shall conduct an impartial review of the findings and decision appealed under this section."

Inquiries regarding the State Board's designee, further notices and/or additional time lines should be directed to the Exceptional Children Division of the North Carolina Department of Public Instruction, Raleigh, North Carolina prior to the required close of the appeal filing period.

IT IS SO ORDERED.

This the 2nd day of November, 2018.



Selina Malherbe
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

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This the 2nd day of November, 2018.



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